FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT

JANUARY 2023

IN THIS ISSUE:

UPCOMING EVENTS

Wednesday, 2-8-23 Breakfast Event / Skyline Club / Cost: $25.00
"Business Succession Planning" / Julius H. Giarmarco, J.D., LL.M.
REGISTER HERE

COMING SOON / Thursday, 3-2-23, Dinner Event at the Detroit Whiskey Factory - optional tour and whiskey/rye tasting
"State Mandated 401(k) Plans & SECURE 2.0 Updates" - Presented by Rickie Taylor

SAVE THE DATE / May 22, 2023 Golf Outing at Wabeek Country Club
Details to Follow Shortly

FEPCMD 2023 OFFICERS

President
Bruce M. Stone
Wells Fargo Private Bank
(248) 723-3173
bruce.m.stone@wellsfargo.com

Vice President
Jim Smallegan,
CPA, CLTC, RICP®, CASL, CLU, ChFC
Northwestern Mutual
(248) 244-6080
james.smallegan@nm.com

Secretary/Treasurer
Gregory C. Hamilton, JD, AEP®
Hamilton &Associates, PLLC
Northwestern Mutual
(248) 642-6150
ghamiltonesq@aol.com

Immediate Past President
Jeffrey R. Hoenle, CFP®, CRPC®, AEP®
Platinum Wealth Management Group, Inc.
(586) 258-3830
jhoenle@mypwmg.com

FEPCMD 2023 BOARD OF DIRECTORS

Margaret P. Amsden, CPA, MST, AEP®
Clayton & McKervey, PC
(248) 208-9115
mamsden@claytonmckervey.com

Glenn Barnes, CLU
PLUS Financial Network
(248) 603-3562
gbarnes@pfnins.com

Daniel Donohue, CLU, ChFC, MBA
MassMutual Great Lakes
(248) 331-2504
ddonohue@financialguide.com

Andrew J. McCulloch, JD
Giroux Trial Attorneys
(248) 531-8665
amcculloch@greatmiattorneys.com

Diana Moak, JD, AEP®
Pugh Moak, PC
(248) 644-7222
dpmoak@pughfirm.com

Hannah Thoms, CPA, MS, CFP
Gordon Advisors, PC
(248) 952-0279
Hannah.thoms@gordoncpa.com

Kris Wolfe, CAE, Executive Director
Association Expertise, LLC
(313) 530-9223
FEPCMD@ASSOCIATIONOFFICE.ORG

NEWSLETTER EDITOR

James Malcolm Knaus, CFP®, MSM, AEP®, CLU®, ChFC®, RICP®
Global Wealth Advisors LLC
(248) 457-4555
Jimknaus@gwallc.com

PRESIDENT'S MESSAGE

Greetings, everyone. On behalf of the Financial and Estate Planning Council of Metropolitan Detroit Board of Directors, I wish you a Happy and Healthy New Year.

I would like to start the year by thanking our Council's sponsors. These sponsors help support our educational programming and events that feature talented and well-experienced speakers, useful and interesting topics, and an opportunity for camaraderie and professional networking among our members and their guests. We extend our gratitude to our sponsors for their generous support. If you are not already a sponsor but would like to be a sponsor, please contact our Executive Director and Administrator, Kris Wolfe, who can be reached at FEPCMD@AssociationOffice.org.

I also thank Jeff Hoenle, Kris Wolfe, the Board Members and committee member volunteers for their ongoing commitment to our Council. Through their dedicated efforts, our Council was named a "5 Star Council" in 2022 by the National Association of Estate Planners & Councils (NAEPC). For 6 years in a row, our Council has been named as a NAEPC award recipient, including twice being recognized as Council of the Year.

We hope to make this another exciting year for our members. Our Council will hold four dinner events, one or more breakfast events, one or more Next/Gen social events (that will be open to all members), plus our members will have access to the national virtual programming made available to our Council by NAEPC.

Our first meeting is a breakfast meeting to be held on Wednesday, February 8th at the Skyline Club. Our speaker will be Julius H. Giarmarco, J.D., LL.M. Our first dinner meeting will be on Thursday, March 2nd at The Whiskey Factory in Detroit. Our speaker will be Rickie Taylor. Our annual golf outing will be on Monday, May 22nd at the Wabeek Country Club. Please watch for the event notice for each of these upcoming events.

The success of our Council is due to our members including those who contribute their time and energy as an officer, board member or committee member. We encourage anyone interested in serving on a committee or on our Board of Directors to reach out to the Board to express your interest.

I look forward to serving as our Council's President. Please do not hesitate to reach out to me throughout the year with any thoughts, comments or ideas on how we can enhance your experience as a Council member. Thank you.

Sincerely,

Bruce M. Stone
FEPCMD President

THE FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT
Presents

Wednesday, February 8, 2023 Breakfast Meeting
Skyline Club, 2000 Town Center, Top Floor, Southfield, MI 48075

"Business Succession Planning"
Julius H. Giarmarco, J.D., LL.M.

8:00 am to 8:30 am Breakfast Buffet / 8:30 am to 9:30 am Presentation
Breakfast Buffet Will Remain Open During the Presentation

$25.00 per person – Please register online or mail check by 1-27-23:
FEPCMD, 33006 W. Seven Mile Road, #237, Livonia, MI 48152

Name:__________________________ Name: _______________________________

Key Presentation Points:
1) Non-Tax Considerations in Business Succession Planning
2) Succession and Estate Planning Techniques for Closely-Held Businesses, including Installment Sales to Grantor Trusts, Spousal Lifetime Access Trusts, and Holding Companies
3) Using and Reporting Defined Value Gifts

Mr. Julius H. Giarmarco, J.D., LL.M., is chair of the Giarmarco, Mullins & Horton, P.C.'s Trusts and Estate Practice Group. Julius received his law degree from Wayne State University, and his master of laws from New York University. Julius' primary practice areas include estate planning, business succession planning, wealth transfer planning, asset protection planning and life insurance applications. He was a former instructor in both the Chartered Life Underwriter (CLU) and Certified Financial Planner (CFP) programs. Julius lectures frequently on a national basis and has published a number of articles on estate planning. Julius has been selected by his peers as a Michigan Super Lawyer, Leading Lawyers, Best Lawyers in America and as a "Top Lawyer" by dBusiness magazine. He also enjoys the highest possible rating in both legal ability and ethical standards by Martindale-Hubbell.

SAVE THE DATES

FEPCMD DINNER EVENT

OPTIONAL TOUR PLUS WHISKEY & RYE TASTING

The tour is limited to 30 – first come first served

Come for a tour, a taste and exploration of where distilling meets history. See first-hand how artisanal spirits are made. And....of course, a tasting of whiskey and rye at the end of the tour.

Rickie Taylor

"State Mandated 401(k) Plans & SECURE 2.0 Updates"

Thursday, March 2, 2023
Whiskey Factory, Detroit
Complimentary onsite & guarded parking


FEPCMD GOLF OUTING

Watch for some changes this year…

Grilled dinner on the outdoor patio as soon as golfers come off the course, easier tee box placement for our senior members, and more…

Monday, May 22, 2023
Wabeek Country Club, Bloofield Twp.

Rising Up – Planning for Higher Interest Rates

William C. Hussey, II and Franca Tavella

Introduction

The Federal Reserve has now raised the federal funds rate seven times in 2022 in an effort to curb inflationary pressures in the U.S. economy. This included raising the key rate by 75 basis points at each of its June, July, September and November meetings. The rate now sits at levels not seen since before the 2008 financial crisis.

The federal funds rate has a direct effect on many other interest rates that ultimately may impact our clients' estate planning goals. Specifically, as interest rates rise, there likely will be corresponding increases in the Applicable Federal Rate and the so-called "Section 7520" rate, both of which are used to determine the tax implications of certain gifts and other transfers for federal transfer tax purposes.

Accordingly, estate planning practitioners and other advisors should contemplate how interest rate sensitive planning techniques are impacted in this changing environment. This article will explore selected gift and estate planning techniques that tend to perform better in a higher-interest rate environment and are therefore most likely to gain traction moving forward.

Charitable Remainder Annuity Trust

A Charitable Remainder Annuity Trust ("CRAT") is an estate planning vehicle where the donor contributes assets to an irrevocable trust that pays a fixed annuity to the donor (or other beneficiary) for a term of years and then distributes the remainder to a designated charity (or charities) at the end of the term. To qualify as a CRAT under the Internal Revenue Code of 1986, as amended (the "Code"), the trust must satisfy certain requirements, two of which are relevant to this discussion: the annuity amount must be at least 5%, but no more than 50%, of the initial fair market value of the property contributed to the trust; and the value of the charity's remainder interest must be at least 10% of the initial fair market value of the property contributed to the trust. The Code also requires that on the date the CRAT is created, it must pass the "probability of exhaustion test" which is explained in further detail below. If a donor can satisfy these requirements, then utilizing a CRAT will be advantageous for several reasons, including the receipt of fixed income payments and the ability to defer or avoid payment of capital gains tax on the transfer of appreciated assets to the CRAT. Additionally, in funding a CRAT, a donor is able to reduce the size of his or her taxable estate, while simultaneously providing an income stream for the donor or another person and benefiting a charity important to him or her. Lastly, and perhaps most attractive, is the charitable deduction available to the donor for income tax purposes, which is equal to the actuarial value of the remainder interest passing to the charity.

In a high interest-rate environment, a CRAT is even more advantageous; not only do high interest rates tend to produce a higher deduction, but they make it easier to satisfy the IRS requirements referenced above. With CRATs, the actuarial value of the remainder interest is valued at its present value using the Section 7520 rate. When the Section 7520 rate is higher, the value of the donor's retained interest is reduced. As a result, the value of the charity's remainder interest increases (making it easier to satisfy the 10% requirement) and consequently also increases the donor's charitable deduction.

As mentioned above, the Code also requires that a CRAT pass the "probability of exhaustion test." This means that on the day the CRAT is created there must be no more than a 5% probability that the non-charitable income beneficiary will survive the exhaustion of the trust. This test is addressed at length in Revenue Ruling 77-374. For a CRAT to pass this test, the Section 7520 rate must be equal to or greater than the percentage used to determine the annuity payment (5% being the minimum). Clearly, the low interest rates of recent years have made it nearly impossible for donors to pass this test. Although the IRS previously provided practitioners with language to include in trust instruments to remedy this issue, it is only a relatively recent solution, and will not be necessary if and when the Section 7520 rate reaches 5% or higher.

It is important to note here that the 2017 tax legislation limits the usefulness of charitable deductions for many taxpayers due to the increase in the standard deduction. This is less likely to be a concern for the category of clients who might be considering a CRAT. The deduction generated by a CRAT is likely to exceed the standard deduction threshold.

Charitable Gift Annuities

Another estate planning technique that works well in a high interest-rate environment is the use of a charitable gift annuity ("CGA"). A CGA is a contract between a donor and a charity where the donor makes a gift to the charity in exchange for a fixed stream of income. At the donor's death, the charity receives the remainder of the gift. A CGA thus serves in a similar fashion to a CRAT without the expense of creating and administering a trust. In the CGA context, the donor's gift is set aside in a reserve account and invested by the charity. The annuity payment that the donor receives varies among charities, and is based on several factors, such as the size of the gift and the donor's age. The annuity payment is a fixed amount. It is interesting to note that the CGA payment is guaranteed by the charity no matter how the investments perform, because the CGA payment is backed by all the charity's assets, not only the donor's gift.

Given the similarities between CGAs and CRATs, CGAs are attractive for the same reasons CRATs are when interest rates are high, i.e., larger charitable deductions. Here, the charitable deduction equals the amount of the donor's contribution in excess of the present value of the retained annuity. In addition, the donor also will receive more income than in past years as interest rates continue to rise. This is because the maximum rates of return relied on by most charities are established by the American Council on Gift Annuities ("ACGA"), which monitors certain interest rates that underlie the investment return assumptions used to create their rate schedules. On May 17, 2022, the ACGA increased its suggested maximum payout rates, and it is expected to do so again in the current environment if interest rates continue to rise.

Qualified Personal Residence Trust

A Qualified Personal Residence Trust ("QPRT") is yet another estate planning technique that operates in a manner similar to a CRAT, albeit with different assets and remainder beneficiaries. With a QPRT, the grantor transfers his or her primary home or vacation home into a trust while retaining the right to live in the home for a term of years; at the end of the term, the home passes to the remainder beneficiaries (for example, the grantor's descendants) free from gift and estate tax liability. Like a CRAT, computing the present value of the beneficiaries' remainder interest is determined by the Section 7520 rate. Therefore, when interest rates are higher, the value of the gift of the grantor's home is lower, which ultimately lowers the potential taxable value of the gift to the QPRT. This is a popular technique used to transfer vacation property to the next generation. Two points to keep in mind when contemplating this strategy, and in particular, the term of the QPRT: 1. If the grantor wishes to continue using the property after the end of the term, she must pay fair market value rent to the remainder beneficiary or beneficiaries (if the remainder beneficiary is a grantor trust, the payment of rent will have no income tax effect); and 2. The grantor must survive the QPRT term to have the transferred property excluded from her estate.

Conclusion

Interest rates are on the rise and this trend is expected to continue for the foreseeable future. In this environment, CRATs and CGAs most likely will become more popular tools that estate planners reach for on behalf of their clients. Practitioners also should consider the use of QPRTs, which may have fallen out of favor when interest rates were low but are certainly a more viable option now. Conversely, rising interest rates may lessen the efficacy of private annuities, grantor retained annuity trusts ("GRATs") and charitable lead trusts ("CLTs"). We, as estate planning advisors, should therefore be paying close attention to the Federal Reserve and advising our clients accordingly.

William Hussey is a partner in Kleinbard's Trusts & Estates Practice and is a member of the Business & Finance Department. He counsels clients on structuring business and investments in a tax-efficient manner. Bill counsels individuals and fiduciaries on all phases of estate and wealth transfer planning, including business succession and asset protection. He also advises non-profit clients on qualification and maintenance of tax-exempt status issues. He has frequently lectured and regularly publishes articles on tax and estate planning topics.

Franca Tavella is an associate in Kleinbard's Trusts & Estates Practice and is a member of the Business & Finance Department where she focuses her practice on estate planning, estate and trust administration, and taxation. She also has a special focus on guardianship proceedings involving the person and estate of incapacitated individuals, and she handles all aspects of guardianship administration. In addition, Franca regularly assists clients with the formation of non-profit organizations, including obtaining tax-exempt status.

FINANCIAL AND ESTATE PLANNING COUNCIL OF METROPOLITAN DETROIT

Congratulations to the FEPCMD Leaders and Members!
2022 5 Star Council Recipient

(the 6th year in a row that the FEPCMD has been an NAEPC award recipient)

NAEPC

Council of Excellence

Did You Know?

There is a new FEPCMD committee in 2023 –Next Gen Committee

If you are age 35 or under or if you have someone in your firm who may be interested in joining the FEPCMD and this committee, please contact fepcmd@associationoffice.org

As a member of the FEPCMD, you are entitled to member benefits through the National Association of Estate Planners & Councils (NAEPC). A complete listing of Member Benefits may be found here.

Examples:

- ACTEC Trust and Estate Talk
- ACTEC Family Estate Planning Guide
- HeirSearch
- Journal of Financial Service Professionals, the Official Publication of the Society of FSP
- NAEPC Journal of Estate & Tax Planning
- Trusts & Estates Magazine – 60 percent off the regular $375 rate

The FEPCMD now accepts, VISA, MasterCard, and American Express

Please consider using the secure online payment system for membership renewal and event registrations

Thank You To Our FEPCMD 2022 Sponsors

Welcome to our New FEPCMD 2023 Sponsors

(please contact fepcmd@associationoffice.org if you wish to become a sponsor

Thank You To Our 2022 Sponsors

- BDO
- Berry Moorman
- Butzel Long
- CIBC Private Wealth Management
- Clayton & McKervey, PC
- Community Foundation for SE Michigan
- Couzens Lansky
- Dawda Mann
- Dickinson Wright, PLLC
- Doeren Mayhew
- Dykema
- Giarmarco, Mullins & Horton, PC
- Gordon Advisors
- Greenleaf Trust
- Hindman Auctioneers
- Huntington Private Bank
- Jackson National
- Jaffe
- Kercheval Financial Group of Wells Fargo Advisors
- Lifetime Financial Growth of Michigan
- Maddin Hauser
- MassMutual Great Lakes
- Merrill Lynch
- MRPR CPAs & Advisors
- Northern Trust
- Northwestern Mutual
- Plante Moran Wealth Management
- Plunkett Cooney
- Rehmann
- Rochester University
- Schechter Wealth
- Schluter & Hughes Law Firm, PLLC
- Stout
- Varnum
- Warner
- Wells Fargo Private Bank
- Williams Williams Ratner & Plunkett, P.C.

Welcome to Our New 2023 Sponsors

- LoVasco Consulting Group
- Pugh Moak P.C.
- Principal Financial

The Financial and Estate Planning Council of Metropolitan Detroit is an award winning, affiliated Council of the NAEPC

NAEPC
NATIONAL ASSOCIATION OF ESTATE PLANNERS & COUNCILS
COLLABORATE · EDUCATE · CULTIVATE